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Hon. Robert M. Gates
Acting Director of Central Intelligence
Central Intelligence Agency
Washington, D.C. 20505

Dear Bob:

At your recent confirmation hearings, Senator Roth proposed that you attend a meeting of senior members of the Senate Select Committee on Intelligence and the Senate Committee on Governmental Affairs in regard to expanded authorities for the General Accounting Office (GAO). It is probable that these would allow the GAO to audit all CIA funds and expenditures.

The undersigned were concerned that time had not permitted you to become aware of the early history of CIG/CIA relations with the Comptroller General/GAO in which the GAO had itself voluntarily withdrawn from such audits.

We have prepared the attached Memorandum on this early history in the hope that it may prove useful.

With best regards, we are

Sincerely yours,

/s/

LAWRENCE R. HOUSTON
Former General Counsel, CIA

/s/

WALTER PFORZHEIMER
Former Legislative Counsel, CIA

Enclosure

MEMORANDUM FOR: The Acting Director of Central Intelligence

SUBJECT : Early Relations Between CIG/CIA and the General Accounting Office/Comptroller General

1. The earliest relations between the Comptroller General and the Central Intelligence Group were probably during the Directorship of Lt. Gen. Hoyt S. Vandenberg (10 June 1946-1 May 1947). These involved the fact that CIG had no funds of its own, but derived them from the State/War/Navy departmental budgets. Thus, the DCI could not re-delegate the funds to subordinates until the Bureau of the Budget, the Treasury, and the Comptroller General authorized the National Intelligence Authority to establish a "working fund" for CIG's use over which the DCI could exercise the same authority as could the Secretaries over the basic appropriations.
2. As of 22 January, 1947, CIG actually became illegal, because of the Independent Offices Appropriations Act of 1945, which provided that no funds could be used for any agency which had been in existence for more than one year and for which funds had not been specifically appropriated by Congress. Again the Comptroller General (through his excellent General Counsel, Lyle Fisher), the Bureau of the Budget, and the Treasury Department ruled that, if no one else raised the question, they would not raise it, and CIG should keep going until it ran into something. They had no desire to upset the situation at all, particularly as we were then in the process of securing our enabling legislation. The Comptroller General (Lindsay Warren) was very hard-nosed as a rule, but now he went along.
3. Early in 1948, it was determined to submit additional legislation for CIA's housekeeping, administrative and funding purposes. [This proposal passed the Senate in 1948, but events did not permit its final passage in the House. It became law as the Central Intelligence Agency Act of 1949 in the latter year.] Prior to the submission of the proposed legislation to the Congress in March 1948, it was necessary for CIA to "clear" the draft through the Bureau of the Budget. Among those to whom the Bureau submitted our draft for clearance was the Comptroller General. Of particular interest to the latter was what is now Sec. 8(b) of the 1949 Act which provides for the expenditure of certain funds to be accounted for solely on the certificate of the Director [an authority extended to the DDCI by Comptroller General's decision of 2 January 1962]. The idea of so-called "confidential funds" was not new. In fact, President Washington, in his first message to the 1st Congress, had requested and received such authority. However, we knew that Comptroller General Warren was generally opposed to the granting of such authority, and, if memory serves us, he had, a short time before, vetoed such a request from the Atomic Energy Commission, which had then withdrawn it. After conversations between Mr. Houston and GAO General Counsel Fisher, the Comptroller General wrote the Bureau of the Budget in March 1948 as follows:

"[certain sections] provide for the granting of much wider authority than I would ordinarily recommend for Government agencies generally, [but] the purposes sought to be obtained by the establishment of the Central Intelligence Agency are believed to be of such paramount importance as to justify the extraordinary measures proposed therein. The importance of obtaining, correlating, and disseminating to proper agen-

cies of the Government intelligence relating to national security under present international conditions cannot be overlooked. In an atomic age,...it becomes of vital importance to secure, in every practicable way, intelligence affecting its security. The necessity for secrecy in such matters is apparent and the Congress apparently recognized this fully in that it provided in section 102(d)(3) [of the National Security Act of 1947] that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure. Under those conditions I do not feel called upon to object to the proposals advanced..."

Had the Comptroller General opposed our desire for "confidential funds", we feel sure that those authorities could not have been obtained. As it was, in 1948, Senator Brian McMahon moved on the floor to strike that provision, and it was stricken. However, after a rather bitter dispute with Mr. Pforzheimer outside the Senate chamber immediately thereafter, to his credit Senator McMahon returned to the Senate floor and restored the stricken provision. We had no more trouble in securing this provision.

4. After enactment of the CIA Act of 1949, it was agreed that a specially cleared team of GAO auditors would audit all CIA expenditures, except for those accounted for solely on the certificate of the DCI. Initially, the GAO performed a simple voucher audit, but in time this changed to a true comprehensive (or program) audit, including such operations which were supported by normal expenditures. The GAO ran into two difficulties: (a) for activities supported by normal expenditures, the vouchers were in some cases backed up by documents which the GAO team was not authorized to see; and (b) they could, by agreement, not see any of the vouchers for those expenditures which were accounted for solely on the DCI's certificate. It was difficult for GAO to draw the line between (a) and (b).
5. In view of the problems noted in para. 4, and after we spent a considerable period of time trying to work out a suitable solution, GAO itself notified CIA that it would have to withdraw from auditing our expenditures. It is Mr. John Warner's recollection, having worked for years as Mr. Houston's assistant and who became CIA Legislative Counsel in 1958, that Cong. Carl Vinson, Chairman of the House Armed Services Committee and the CIA subcommittee thereof, urged that more time be given to try to work out a solution, and this was done without success. GAO then withdrew completely.
6. Over the last session or two of the Congress, the GAO has supported very comprehensive legislation which would give them sweeping powers to look into virtually all governmental matters. The language of these previous bills seems to be sufficiently broad to include reviews of any and all CIA expenditures. This is evidently coming forward again, if one can correctly interpret Senator Roth's comments at Mr. Gates' confirmation hearing. The reason that we are writing this Memorandum is to be certain that Mr. Gates is aware of the early history of our relations with GAO before he attends a meeting, such as Senator Roth suggested, between the senior members of the Senate Committee on Governmental Affairs and the Senate Select Committee on Intelligence on this subject.

7. One last note on semantics. It should be noted that the funds involved under the DCI's certification often have been referred to as "unvouchered funds". This is erroneous, as virtually all CIA expenditures are vouchered to the extent possible. The current term for those funds expended under the DCI's certificate is "confidential funds".

LAWRENCE R. HOUSTON
Former General Counsel, CIA

WALTER PFORZHEIMER
Former Legislative Counsel, CIA